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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,698	08/29/2003	Shaul Goldenberg	PT-1870002	7691

23607 7590 09/21/2004

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EXAMINER
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STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/650,698	<b>Applicant(s)</b> GOLDENBERG ET AL. <i>ST</i>	
	<b>Examiner</b> Gregory J. Strimbu	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/24/03</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

### ***Drawings***

The drawings are objected to because in figure 10 it appears that the brake elements 53b should be disposed between clamping elements 52 and 53 since the brake elements are disposed on the clamping element 53. In figure 11A, it appears that the pivot element of the window 27 should be labeled and shown in figure 11B in addition to figure 11A. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the legal phraseology "said" on lines 3, 5 and 6 should be avoided. Additionally, on lines 2-3, "above-mentioned . . . combination" is confusing since the abstract has not previously set forth the camlock-tilt latch combination to which the applicant refers. Finally, the abstract is objected to because it fails to mention the pivot shoe. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: on lines 1-2 of page 24, "[t]he portion . . . to the opening 51b" is confusing since it is unclear how the pivot 58b can engage the opening 51b. Finally, the applicant should avoid referring to the same element of the invention with different language. For example, the applicant should avoid referring to element 58b as "pivot" on line 1 of page 24 and as "extension" on line 3 of page 25.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

It is suggested that the applicant amend the title to refer to the pivot shoe.

***Claim Rejections - 35 USC § 112***

Claims 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "of" on line 3 of claim 13 render the claims indefinite because it is unclear which of the two non-equivalent alternatives the applicant is positively setting forth. Recitations such as "having leading edges" on line 3 of claim 13 render the claims indefinite because it is unclear if the recitation is modifying only the surfaces or both the surfaces and the camming elements. Recitations such as "preferably" on line 4 of claim 13 render the claims indefinite because it is unclear if the applicant is positively setting forth a metal construction or merely setting forth a preference. Recitations such as "means" on line 5 of claim 13 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Recitations such as "a clamping element" on line 7 of claim 13 render the claims indefinite because it is unclear if the

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applicant is referring to one of the clamping elements set forth above or is attempting to set forth another clamping element in addition to the ones set forth above. Recitations such as "said clamping members" on line 8 of claim 13 and "the window" on line 13 of claim 13 render the claims indefinite because they lack antecedent basis. Recitations such as "camming member elements" on line 10 of claim 13 render the claims indefinite because it is unclear if the applicant is referring to the camming members or the camming elements. Recitations such as "the track to glide" on line 12 of claim 13 render the claims indefinite because it is unclear how the track can glide since it appears that the track would be fixed to a frame. Recitations such as "/" on line 15 of claim 13 render the claims indefinite because it is unclear what "/" is intended to represent.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 14, as best understood by the examiner, is rejected under 35 U.S.C. 103(a) as being unpatentable over Briggs in view of Goldenberg and Guelck. Briggs discloses a substantially zero clearance clamping pivot shoe, said pivot shoe comprising a top (not numbered, but best shown in figure 2) and a bottom (not numbered, but best shown in figure 2) and having disposed proximate the top and

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bottom thereof, a camming member 30 having a camming element 34 or surfaces having leading edges (not numbered, but shown in figure 2), said camming members having disposed there-between a first 24 and a second 20 track clamping element preferably having braking means 28 provided therewith and preferably at least one supplementary preferably pebbled preferably metal braking part engageable with a clamping element and a track portion for a window assembly disposed and riding between said clamping elements in use, one of said clamping members 24 having a compatible camming element 36 or surfaces engageable with respect to the camming member element 34, said top clamping element including track engaging parts (not numbered, but shown in figure 2 as the distal portions of the clamping element 24) integrally formed therewith to enable the track to glide unclamped yet supported between the clamping elements when the window is not pivoted, wherein when the window is pivoted the leading edge of the camming element of the top member override the camming elements/surfaces of the clamping element to cause the clamping portions and preferred braking means to move towards one another preferably a distance substantially equal to the sum of the dimensions of the top and bottom camming elements thereby causing the clamping elements to immediately move toward one another and to clamp down on the laterally extending track portion 26 of the window assembly and prevent movement of the sash within the track prior to the window being pivoted more than substantially 1 degree or substantially beyond the angle whereat the free end of the window would no longer be disposed in the track. Briggs is silent concerning a bottom camming member and posts.

However, Goldenberg, in figures 22A and 22B, disclose top 510 and bottom 512 camming elements.

It would have been obvious to one of ordinary skill in the art to provide the camming member of Briggs with a lower camming element 34, as taught by Goldenberg, to increase the clamping force.

Additionally, Guelck discloses a second track clamping element 6 including posts 60 having tops extending above the top of a braking means 16 and a triangular shaped land 22 and groove 12 camming elements.

It would have been obvious to one of ordinary skill in the art to provide Briggs, with posts and triangular shaped camming elements, as taught by Guelck, to better ensure the smooth movement of the pivot shoe in the track and to increase the speed with which the camming elements act.

### ***Allowable Subject Matter***

Claims 15-17, as best understood by the examiner, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach the upper clamping member including a substantially V-



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shaped camming surface and the lower camming member includes a smaller trapezoidal-shaped camming surfaces. See lines 2-5 of claim 15.

Additionally, the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach the upper camming member engages with a metal bracket proximate the top thereof and includes a pivot extension portion which extends through the upper and lower clamping member, the lower camming member being secured proximate the bottom thereof preferably via a substantially c-shaped clip engaging a groove provided with said pivot extension portion, preferably, the metal bracket engaging the upper camming member includes a slot and an outwardly extending leg for engaging with the sash and a corresponding bracket having a generally hat shaped profile fastened to the side of a window sash adjacent the pivoting ends thereof, wherein the hat profile may be slid into the substantially c-shaped profile of the first bracket to fasten the window sash to the pivot shoe assembly and the outwardly extending leg. See lines 1-10 of claims 16 and 17.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sterner et al. is cited for disclosing a pivot shoe for a sliding window.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-

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305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu  
Primary Examiner  
Art Unit 3634  
September 16, 2004